

FEB 15 2006

JOHN F. GORCORAN, CLERK
BY: *[Signature]*
DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

CARL A. EUBANKS,
Petitioner,

V.

TERRY O'BRIAN, WARDEN
Respondent.

Civil Action No. 7:06cv00107

FINAL ORDER


By: Samuel G. Wilson
United States District Judge

In accordance with the memorandum opinion entered this day, it is hereby **ORDERED** and **ADJUDGED** that the above-captioned suit is **DISMISSED** without prejudice. This action is stricken from the active docket of the court.

Eubanks is advised that he may appeal this decision pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure by filing a notice of appeal with this court within 60 days of the date of entry of this order, or within such extended period as the court may grant pursuant to Rule 4(a)(5).

The clerk is directed to send certified copies of this order and the accompanying memorandum opinion to the petitioner and counsel for the respondent.

ENTER: This 15th day of February, 2006.


UNITED STATES DISTRICT JUDGE